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11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 **Juan Manuel Chavez,**

16 Petitioner,

17 v.

18 **Ben Curry, Warden,**

19 Respondent.

C07-5512 PJH

**REQUEST FOR AN EXTENSION OF
TIME TO FILE A RESPONSIVE
PLEADING; DECLARATION OF
COUNSEL**

Judge: The Honorable Phyllis J. Hamilton

21 **REQUEST FOR EXTENSION OF TIME TO FILE A RESPONSIVE PLEADING**

22 Petitioner Juan Manuel Chavez, an inmate at the Correctional Training Facility and serving
23 an indeterminate sentence for second-degree murder, represents himself in this habeas action.

24 Petitioner alleges that the Board of Parole Hearings improperly denied him parole at his March 5,
25 2007 subsequent parole consideration hearing. The Court issued a December 17, 2007 Order to
26 Show Cause. For the reasons set forth in the accompanying declaration of counsel, Respondent

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Req. for Ext. of Time to File a Response; Decl. of Counsel

Chavez v. Curry
C07-5512 PJH

1 respectfully requests a thirty-day extension of time, up to and including March 17, 2008, to file a
2 responsive pleading in this matter.

3 Dated: February 15, 2008

4 Respectfully submitted,

5 EDMUND G. BROWN JR.
Attorney General of the State of California

6 DANE R. GILLETTE
Chief Assistant Attorney General

7 JULIE L. GARLAND
Senior Assistant Attorney General

8 ANYA M. BINSACCA
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12 /S/ BRIAN C. KINNEY
BRIAN C. KINNEY
13 Deputy Attorney General
Attorneys for Respondent
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SF2007403490

DECLARATION OF COUNSEL

I, Brian C. Kinney, declare:

1. I am an attorney licensed to practice before the courts of the State of California. I am employed by the California Office of the Attorney General as a Deputy Attorney General, in the Correctional Writs and Appeals section.

2. I am the attorney assigned to respond to the petition for writ of habeas corpus filed by inmate Juan Manuel Chavez.

3. On December 17, 2007, this Court issued an order to show cause requiring Respondent to file a responsive pleading by February 15, 2008. This matter was assigned to me on December 26, 2007.

4. The Attorney General's Office acquired Chavez's state court petitions and denials that he listed in his federal habeas petition. Specifically, Chavez noted that he filed habeas petitions in the California Court of Appeal, and the California Supreme Court. Chavez did not acknowledge filing in superior court. However, on February 5, 2008, I discovered that Chavez also filed a superior court petition with regard to the same claims raised in his federal petition.

5. On February 6, 2008, my paralegal requested that the Los Angeles County Superior Court send Chavez's habeas petition and the superior court's denial. As of yet, the Attorney General's Office has not received these documents.

6. As a result, I am respectfully requesting an extension of time because I lack these documents necessary to prepare a thorough responsive pleading. I respectfully request an additional thirty days, up to and including March 17, 2008, to file a responsive pleading in this matter.

7. Petitioner is representing himself, and, because he is currently incarcerated, he is not easily reachable for notification that I am requesting an extension of time.

8. This request is not made for any purpose of harassment, undue delay, or for any improper reason.

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1 9. Without an extension of time, Respondent would be substantially harmed or prejudiced
2 because Respondent would not have an opportunity to prepare a thorough responsive pleading.

3 I declare under penalty of perjury that the above is true and correct, and that this declaration
4 was executed on February 15, 2008, in San Francisco, California.

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6 /S/ BRIAN C. KINNEY
7 Brian C. Kinney
8 Deputy Attorney General
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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Juan Manuel Chavez v. Ben Curry, Warden**

Case No.: **C07-5512 PJH**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **February 15, 2008**, I served the attached

**1) REQUEST FOR AN EXTENSION OF TIME TO FILE A RESPONSIVE PLEADING;
DECLARATION OF COUNSEL**

2) [PROPOSED] ORDER

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Juan Manuel Chavez (H-74168)
East Dormitory 098-Low
Correctional Training Facility
P.O. Box 689
Soledad, CA 93960-0689
In pro per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **February 15, 2008**, at San Francisco, California.

R. Panganiban
Declarant

/S/ R. Panganiban
Signature